

December 30, 2005

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Mr. David Mermelstein, Attorney  
United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P O Box 1451  
Alexandria, Va. 23313-1451

TTAB

U.S. Reg. No. 1,384,270 PEEL N STICK

Petitioner  
92043900

Omnova Solutions Inc.  
175 Ghent Road  
Fairlawn Oh 44333-3300

V.

Respondent

The Die-Gem Co., Inc.  
One The Die-Gem Way  
Akron, Ohio 44312-1539

Mail Address

The Die-Gem Co., Inc.  
P O Box 8033  
Akron, Ohio 44320-0033

Dear Mr. Mermelstein:

### Proof of Need for Confidentiality

The only products marketed by KEL-EEZ® are designed (invented) by KEL-EEZ. Many companies know this fact. It has been our experience over many years that not just companies who manufacture weatherstripping exclusively but companies who state that they have no interest in weatherstripping have an unexpected change in their interest when information of current happenings at KEL-EEZ becomes available. An application or a marketing area suddenly becomes apparent.

Some examples of companies interested in KEL-EEZ proprietary information

There is a company that manufactures KEL-EEZ's first patent (2095668) product an automatic door-bottom seal. This same company inundated the US market with a poor quality weather strip when KEL-EEZ introduced PEEL N STICK weatherstripping. It required over four years of personalized marketing to overcome the problems created by Macklanburg-Duncan.



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U.S. Patent &amp; TMO/TM Mail Rpt Dt. #34

An arrangement was made with a plastic extrusion company to extrude the lineals for the original "tilt in to clean" double hung window and the sash side by side sliders. Kreidel Plastics believed that their perfection of dies gave them the privilege to extrude and sell lineals to others. KEL-EEZ has had national distribution of "tilt in to clean" windows with Georgia-Pacific. Companies interested in acquiring the rights and/or products manufactured by KEL-EEZ may approach The Die-Gem Co., Inc directly.

Several examples point to the fact that companies that seemingly have no apparent interest in KEL-EEZ proprietary information at some time become interested.

During the first energy crisis KEL-EEZ made many presentations at contractor, building and homeowner exhibits. We became aware of visitors to our booth that did not fit the profile of a customer or end user of our products. When Minnesota Mining & Manufacturing became aware that we had documented their continual visitations they contacted The Die-Gem Co., Inc. and inquired if we were interested in discussing an acquisition proposal. The consequence of the 3M delaying action was that 6 months after their inquiry, their first weather strip package appeared on store shelves and was a duplicate of all KEL-EEZ advertising points neatly listed on their packaging labels. Their selling pitch read as if you had recorded KEL-EEZ sales pitch for PEEL N STICK® weatherstripping.

At The Canadian Hardware Exhibit, a manufacturer of sundry soft goods and vacuum cleaner brushes from Bristol England approached KEL-EEZ with a query of being a supplier of straight brush strip in long lengths. At that time, 42" was the maximum length available in the US. Not only did Kleeneze not fulfill the orders we gave them they copied our material specifications and are now the largest supplier of brush weatherstripping in the British Isles and Europe. Two years later they opened a company called Sealeze in Richmond VA.

Mr. Mermelstein, these examples show why it is important to protect information generated about PEEL N STICK® products. These examples also show that KEL-EEZ has done more to shape the weatherization industry than any other company.

The evidence presented and marked as Confidential was presented as part of the answer (as proof) to the Trademark Trial and Appeal Board's request when Omnova Solutions Inc. made written allegations, one of which was that The Die-Gem Co., Inc "has abandoned the mark "PEEL N STICK," has made no use of it in connection with any goods for the last three consecutive years preceding the filing of this claim for cancellation, and has no intent to resume such use." The Confidential information is prima facie evidence that all their claims are false. The Answer to the demand for

cancellation needs to be reviewed in its entirety by the TT&AB and a summary judgment rendered.

This Confidential information was given with intent "of eyes only" to the Judge(s) of the TT&AB as part of the Answer for proof of use and continued use as part of the pre-trial request by the TT&AB, in order to determine the validity of the accusation of Omnova Solutions Inc. The Confidential information was given only to protect a valuable asset the mark PEEL N STICK that has been a prime ingredient for growth of The Die-Gem Co., Inc. This fact is evidence of the high value in which The Die-Gem Co., Inc. holds the mark PEEL N STICK.

The Die-Gem Co., Inc. believes Omnova Solutions Inc. is a perfect example of the companies discussed above. Omnova Solutions Inc. has misled the TT&AB in their Petition to Cancel when they state (The Die-Gem Co., Inc.) "has no intent to resume such use."

1. Omnova Solutions Inc. was well aware of The Die-Gem Co., Inc. intent from the letter to cease and desist of July 2004 yet they made the above statement in October 2004
2. Omnova Solutions Inc., lack of good faith is further shown by their statement that the "Respondent has abandoned the mark PEEL N STICK." In order for someone to believe that statement one would have to believe they had not read the rejection of their application by the United States Patent and Trademark Office and had not reviewed the Lexis/Nexis® computerized data base sightings.

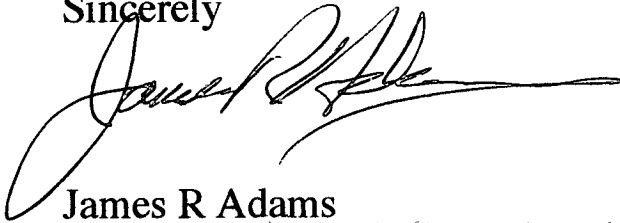
Further information about the mark PEEL N STICK was down loadable from:

- a. [www.die-gem.com](http://www.die-gem.com) which was the web site for KEL-EEZ weather stripping and the mark PEEL N STICK was enumerated many times. KEL-EEZ's web site was moved to [www.kel-eezweatherization.com](http://www.kel-eezweatherization.com) in 2005.
- b. The Die-Gem Co., Inc. site went on the World Wide Web in the year 2001. Advertising sheets were down loadable from the site.
- c. A Google search has shown that KEL-EEZ PEEL N STICK® weatherstripping is and has been well entrenched on the World Wide Web and maintains position one or two as shown in The Die-Gem Co., Inc. Exhibit# 4 in the Answer to the Boards query.

Omnova Solutions Inc ignores all these facts and continues to waste the valuable time and assets of The Die-Gem Co., Inc

A solution might be for Omnova Solutions Inc to approach The Die-Gem Co., Inc. directly. The assets as a whole for The Die-Gem Co., Inc. are for sale. The Die-Gem Co., Inc. has a number of trade names that have been documented for many years with the media as well as a broad product line, which allowed the easy transfer of efforts as the economy changes.

Sincerely

A handwritten signature in black ink, appearing to read 'James R Adams', with a long horizontal flourish extending to the right.

James R Adams  
President  
The Die-Gem Co., Inc.

Encl

Email response

JRA@die-gem.com  
JRA@kel-eezweatherization.com  
JRA@kel-eezwindows.com

330-784-7400 Fax 7542

### Certification

I certify that on the 9<sup>th</sup> day of January 2006 this letter to Mr. Mermelstein was served by Internet and addressed to the representative of Omnova Solutions Inc.

Mr. Michael C Whitticar  
Jagtiani + Gutttag  
10363-A Democracy Lane  
Fairfax, Va. 22030

At

[mikew@jagtiani.com](mailto:mikew@jagtiani.com)  
Web site [www. Jagtiani.com](http://www.Jagtiani.com)

And by

I certify that on the 9<sup>th</sup> day of January 2006 this letter to Mr. Mermelstein was served by US Mail addressed to the representative of Omnova Solutions Inc. addressed and postage prepaid to the correspondent of record for Petitioner:

Mr. Michael C Whitticar  
Jagtiani + Gutttag  
10363-A Democracy Lane  
Fairfax, Va. 22030

  
James R Adams      JRA@die-gem.com  
President              330 784-7400